CWP No.857 of 2007.

11.10.2007 Present : Mr.Romesh Verma, counsel for the petitioner.
Mr.M.S. Chandel, Advocate General, with Mr. R.M. Bisht, Dy.A.G. for respondents.

By means of this writ petition the petitioner has prayed that the land of the petitioner bearing khasra No.1541 measuring 0-13-70 bighas situated at Mauja Lowerkoti, Tehsil Rohroo, District Shimla which has been utilized by the respondents for construction of Parsa-Dhara link road, may be acquired and compensation paid to him according to the provisions of the Land Acquisition Act.

The respondents in their reply have admitted that the land of the petitioner has been used for construction of the aforesaid road. The only ground raised by the respondents is that the construction work on the said link road was allowed by the petitioner without any objection and had also given verbal consent for doing so.

By now the law is well settled that every citizen of this country has a right to hold property and his property cannot be taken by the State except by process of law. The version of the respondents that there is verbal consent as the petitioner had never raised any objection for construction of the road cannot be accepted. No contemporaneous evidence of any nature has been placed on record to support this version of the respondents. Even otherwise we are of the considered view that even if there is no deed transferring the ownership rights of a party to the State Government then also there must at least be some writing such as an affidavit or any other written document to indicate that the owner had agreed that the land

be taken over and the owner would not claim any compensation for the same.

Keeping in view the aforesaid facts, we are of the view that the respondents are in illegal possession of the land of the petitioner. We, therefore, direct that the respondent No.1 shall issue notification under Section 4 of the Land Acquisition Act, 1894 within four months from today and shall complete the entire acquisition proceedings within 2 years from today. The writ petition is allowed in the aforesaid terms. No costs.

(Deepak Gupta),
Judge.

October 11,2007. **(V.K. Ahuja)**
PV **Judge.**